IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3089 of 2002
with
CIVIL APPLICATION No.8249 of 2002
in
SPECIAL CIVIL APPLICATION No.3089 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

EXECUTIVE ENGINEER G.E.B.

Versus

BHARATSINGH VALSINGH BARIYA

Appearance:
1. Special Civil Application No. 3089 of 2002
MR SP HASURKAR for Petitioner No. 1
RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 19/02/2003

ORAL JUDGEMENT

The petitioner Gujarat Electricity Board has challenged the award of the Labour Court, Nadiad in Reference (LCN) No.211 of 1991 dated 29.3.2001. By the impugned award, the Labour Court allowed the Reference directing the petitioner Board to reinstate the respondent workman to his original post with back wages and continuity of service.

2. It is not in dispute that without holding any inquiry or without giving any opportunity of being heard, the respondent was removed from service, as according to the Board, he has produced false certificate regarding passing of Wireman's examination. However, the Labour Court has found that since inquiry was not held, the order of removal was required to be interfered with and accordingly, the said order was set aside and the order of reinstatement was passed in favour of the concerned employee. In view of the reasoning of the Labour Court, this Court does not find any substance in this petition that would warrant interference with the order of reinstatement passed by the Labour Court.

3. However, it is clarified that in case the management wants to hold any fresh inquiry, it will be open for the management to do so since the removal order was initially passed without holding any inquiry. Under these circumstances, it will also be open for the petitioner Board to initiate departmental proceedings after following the principles of natural justice, if it is permissible in law. However, as and when such eventuality arises, it would be open for the workman to take all available defences, as available in law on all points.

4. Mr.Hasurkar, learned advocate for the petitioner has agreed that the petitioner Board shall comply with the order of reinstatement on or before 6th March 2003.

5. Subject to the above observations, the petition stands rejected. Rule is discharged. Ad interim relief granted earlier stands vacated. No order as to costs.

6. Consequently, Civil Application No.8249 of 2002 does not survive. The same is disposed of accordingly. Notice is discharged.

(Ravi R. Tripathi, J.)

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